

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of)	Docket No. 03-035-29
PACIFICORP for a Certificate of)	Direct Testimony Of
Convenience and Necessity Authorizing)	Randall J. Falkenberg
Construction of the Currant Creek)	For the Committee of Consumer
Power Project)	Services

REDACTED

In order to be fully compliant with the terms of the protective order in Docket 03-035-29, the Committee has redacted from this testimony all information that we believe could be considered commercially sensitive.

PacifiCorp has been requested to review the redacted information and advise us if any of the redacted material can be made public.

4 February 2004

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 **A.** Randall J. Falkenberg, PMB 362, 8351 Roswell Road, Atlanta, Georgia 30350.

3 **Q. WHAT IS YOUR OCCUPATION AND BY WHOM ARE YOU**
4 **EMPLOYED?**

5
6 **A.** I am a utility rate and planning consultant holding the position of President and
7 Principal with the firm of RFI Consulting, Inc. ("RFI").

8 **Q. PLEASE BRIEFLY DESCRIBE THE NATURE OF THE CONSULTING**
9 **SERVICES PROVIDED BY RFI.**

10
11 **A.** RFI provides consulting services in the electric utility industry. The firm provides
12 expertise in electric restructuring, system planning, load forecasting, financial
13 analysis, cost of service, revenue requirements, rate design and fuel cost recovery
14 issues.

15 **I. QUALIFICATIONS**

16 **Q. PLEASE DESCRIBE YOUR EDUCATION AND PROFESSIONAL**
17 **EXPERIENCE.**

18 **A.** Exhibit CCS Exhibit RJF/1 describes my education and experience within the
19 utility industry. I have more than 25 years of experience in the industry. I began
20 my career as an employee of Minnesota Power and Puget Power in the late
21 1970's. Since then I have been a consultant to utilities, industrial corporations,
22 state and federal governmental agencies, public service commissions, power
23 project developers and a major financial institution. I have been directly involved
24 in a large number of rate cases and regulatory proceedings concerning the
25 economics, rate treatment, and prudence of numerous generating plants.

1 During my employment with EBASCO Services in the late 1970s, I
2 developed probabilistic production cost and reliability models used in studies for
3 20 utilities. I personally directed a number of marginal and avoided cost studies
4 performed for compliance with the Public Utility Regulatory Policies Act of 1978
5 ("PURPA"). I also participated in a wide variety of consulting projects in the
6 rate, planning, and forecasting areas.

7 In 1982, I accepted the position of Senior Consultant with Energy
8 Management Associates ("EMA"). At EMA, I trained and consulted with
9 planners and financial analysts at several utilities using the PROMOD III and
10 PROSCREEN II planning models.

11 In 1984, I was a founder of J. Kennedy and Associates, Inc. ("Kennedy").
12 At Kennedy, I provided consulting services in the areas of generation planning,
13 reliability analysis, market price forecasting, stranded cost evaluation, cost of
14 service, rate design and the rate treatment of new capacity additions. In January
15 2000, I founded RFI Consulting, Inc. with a practice comparable to my work at
16 Kennedy.

17 I have presented expert testimony on these and other matters in
18 approximately one hundred and fifty cases. I have testified before the Federal
19 Energy Regulatory Commission ("FERC") and state regulatory commissions and
20 courts in Arkansas, California, Connecticut, Florida, Georgia, Iowa, Kentucky,
21 Louisiana, Maryland, Michigan, Minnesota, New Mexico, New York, North
22 Carolina, Ohio, Oregon, Pennsylvania, Texas, Utah, West Virginia, Washington
23 and Wyoming. Included in CCS Exhibit RJF-1 is a list of my appearances.

1 **Q. HAVE YOU FILED TESTIMONY IN ANY PREVIOUS PACIFICORP**
2 **REGULATORY PROCEEDINGS?**

3 **A.** Yes. Since 1997 I have appeared in numerous PacifiCorp (the “Company”) proceedings in Utah, Oregon, Wyoming and California. In those
4 proceedings, my testimony addressed issues in the areas of net power
5 costs, excess net power costs stemming from the western energy crisis and
6 the Hunter Unit 1 outage and the Certification of the Gadsby Plant
7 Addition.
8

9 In PacifiCorp Docket No. 97-035-01, I testified in support of the
10 Net Power Cost Stipulation (“1997 Stipulation”) on behalf of the Utah
11 Division of Public Utilities (“DPU”) and the Committee of Consumer
12 Services (“Committee” or “CCS”). I appeared again as a witness for the
13 CCS in PacifiCorp’s 1999 and 2001 Utah general rate case proceedings
14 (Docket Nos. 99-035-10 and 01-035-10) where I addressed net power cost
15 issues. In early 2002, I appeared in the Gadsby Plant Addition
16 Certification Case (Docket No. 01-035-37) and the Hunter/Excess Power
17 Cost Deferral Case (Docket Nos. 01-035-23/29/36). Finally, in the last
18 PacifiCorp general rate case in Utah (Docket No.03-2035-02), I prepared
19 “top sheet” adjustments in the area of net power costs. Approximately
20 \$13 million of my proposed adjustments were included in the CCS’
21 exhibit supporting the revenue requirement settlement.

22 I filed testimony on behalf of the Industrial Consumers of
23 Northwest Utilities (“ICNU”) in UE-111, PacifiCorp’s 1999 Oregon rate
24 case. This case was eventually settled. In June 2001, I testified in UE-

1 116, PacifiCorp's Oregon general rate proceeding. I also filed testimony
2 in the PacifiCorp Oregon case related to deferral of excess net power costs
3 (UM-995) in early 2002.

4 In 2001, I filed testimony in PacifiCorp's Wyoming cases (Docket
5 Nos. 20000-ER-167 and 20000-EP-160) concerning a purchased power
6 adjustment clause and deferral of excess power costs. These cases were
7 subsequently withdrawn by PacifiCorp. In January 2003 and January
8 2004, I testified in PacifiCorp's last two Wyoming rate cases (Docket
9 Nos. 20000-ER-02-184 20000-ER-03-198) concerning net power costs and
10 excess power costs during the western power crisis period.

11 In July 2001, I also filed testimony in a PacifiCorp general rate
12 case in California (Application 01-03-026). Finally, in 2003, I testified
13 before the Washington Utilities and Transportation Commission in
14 PacifiCorp Docket No. UE-024017, a case related to recovery of deferred
15 power costs.

16 **Q. HAVE YOU APPEARED AS AN EXPERT IN OTHER PROCEEDINGS**
17 **INVOLVING POWER PLANT PLANNING ISSUES?**

18 **A.** Yes. I have appeared in numerous other cases involving power plant planning
19 including cancellation cases involving Vogtle and Limerick nuclear power plants
20 and the Trimble County coal-fired power plant. I also filed testimony concerning
21 certification of the San Jacinto project, a combined cycle gas-fired facility located
22 in Texas. CCS Exhibit RJF-1 provides information concerning all of these cases.

II. INTRODUCTION AND SUMMARY

Q. ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?

A. I am a witness for the CCS.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My testimony presents the Committee's concerns relating to PacifiCorp's modeling of the Currant Creek project ("Currant Creek") and alternative resources, and certain problems that are apparent in the RFP and bid evaluation process. Committee Witness Cheryl Murray will present the Committee's recommendations on the Company's application to certify the Currant Creek project.

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. I have identified two broad areas of concern – the Company's modeling of Currant Creek and alternatives, and the RFP and bid evaluation process.

First the modeling used by the Company in its analysis of Currant Creek and alternative resources is fraught with problems and fails to realistically reflect the actual operation of these resources on the PacifiCorp system.

Second, there are a number of significant problems apparent in the RFP and bid evaluation process. These problems make it impossible for the Commission to determine whether Currant Creek was the most economical resource available.

My specific conclusions underlying these two major areas of concern are listed below:

Modeling Issues:

1. PacifiCorp's modeling of Currant Creek and alternative bids fails to use industry standard tools and techniques, most notably. *confidential*
Confidential Due to this problem, it is difficult to determine whether a *confidential* for bid evaluation purposes.
2. *Confidential*
3. PacifiCorp's economic justification of Currant Creek portrays a net present value ("NPV") benefit of \$117 million. *Confidential*
Confidential Correcting this error reverses the results of the Company's analysis, implying Currant Creek is an "above market" resource rather than a "below market" resource.
Confidential

RFP and Bid Evaluation

4. In its RFP, PacifiCorp sought "peaking" capacity for a term of up to 20 years. *Confidential*
Confidential Only a non-compliant bid would have had any realistic chance of winning.
5. *Confidential*
the Company may have discouraged qualified bidders and instead obtained bids with no realistic chance of being selected.
6. *Confidential* .
Confidential This *Confidential* condition of the RFP was never relaxed or amended in any public forum or any documents provided by the Company to bidders.
7. *Confidential*

1
2 8. *Confidential*
3

4 *Confidential* . This has the tendency of discouraging
5 honest bidding.
6

7 9. There were other errors and biases built into PacifiCorp's bid evaluation
8 that tended to reduce the costs of Currant Creek or overstate the project
9 costs of competing bidders.
10

11 10. The dispute between PacifiCorp and Spring Canyon Energy demonstrates
12 that there is reason to question whether all bidders were given a fair and
13 equal opportunity vis-à-vis Currant Creek. *Confidential*
14 *Confidential*

15 Confidential
16
17

18 **OVERVIEW OF CURRANT CREEK MODELING AND ECONOMICS**
19

20 **Q. WHAT HAS BEEN THE STANDARD UTILITY INDUSTRY PRACTICE**
21 **FOR EVALUATION OF MAJOR PLANNING DECISIONS?**
22

23 A. It has been standard utility industry practice for at least 25 years to use a detailed
24 production cost model to develop estimates of the costs, benefits and operational
25 impacts of new generation resources on electrical power systems. This kind of
26 study, when used in conjunction with an incremental revenue requirements
27 analysis of resource alternatives, allows planners to select the option with the
28 lowest net present value of revenue requirements to ratepayers. Utilities have a
29 fiduciary responsibility to minimize costs to ratepayers. Proper use of such a tool
30 enables utilities to meet that obligation.
31

1 **Q. HAS PACIFICORP FOLLOWED THIS INDUSTRY STANDARD**
2 **APPROACH IN MODELING CURRANT CREEK AND RESOURCE**
3 **ALTERNATIVES?**

4
5 A. No. The company has developed an ad-hoc *Confidential*

6 *Confidential*

7 *Confidential*

8 *Confidential*

9 *Confidential*

10 **Q. PLEASE DESCRIBE THE *Confidential* MODEL.**

11 A. *Confidential*

12 *Confidential*

13 *Confidential*

14 *Confidential*

15 *Confidential*

16 **Q. ARE THERE ANY OBVIOUS PROBLEMS WITH PACIFICORP'S**
17 **MODELING APPROACH?**

18
19 A. Certainly. First, the *Confidential*

20 *Confidential*

21 *Confidential*

22 *Confidential*

23 *Confidential*

24 *Confidential*

25 *Confidential*

26 *Confidential*

27 *Confidential*

1 *Confidential*

2 *Confidential*

3 *Confidential*

4 *Confidential*

5 *Confidential*

6 *Confidential*

7 Use of such an approach does not allow one to reflect the considerations
8 that might impact the costs *Confidential*

9 *Confidential* In setting
10 rates, for example, PacifiCorp uses the GRID production cost model. GRID does
11 reflect many operational constraints on the PacifiCorp system and provides a
12 much higher level of modeling detail. Thus, *Confidential*

13 *Confidential*

14 *Confidential*

15 *Confidential*

16 *Confidential*

17 *Confidential*

18 *Confidential*

19 *Confidential*

20 *Confidential*

21 *Confidential*

22 *Confidential*

23 *Confidential* Indeed, it can be argued that resource planning decisions are far

1 more important than a rate case because a bad planning decision can have
2 tremendous short-term and long-term impacts. As an example, consider the
3 Centralia Generation Plant sale. Were it not for that one single decision on the
4 part of PacifiCorp, the deleterious effects of the western power crisis on
5 PacifiCorp and its customers might have been substantially mitigated.

6 However, PacifiCorp does not use of any of the detailed production cost
7 models available to it, but instead *Confidential* In
8 addition, the *Confidential* modeling performed by the Company included numerous
9 errors. As a result, I am left with little confidence that the Company's Currant
10 Creek economic studies and bid evaluations will have any relationship to the costs
11 ratepayers will ultimately be asked to pay.¹

12 **Q. CAN YOU PROVIDE ANY SPECIFICS TO ILLUSTRATE THIS**
13 **PROBLEM?**

14
15 A. A prime example concerns the operation of the Currant Creek plant on the
16 PacifiCorp system. In PacifiCorp's studies of Currant Creek, *Confidential*
17 *Confidential*
18 *Confidential*
19 *Confidential*
20 *Confidential*

21 **Q. IS THIS A REALISTIC MODELING ASSUMPTION?**

22 A. If it were, PacifiCorp would have much lower rates today. In the recently
23 completed 2003 Utah rate case, I discovered that PacifiCorp's coal-fired power
24 plants are frequently turned down at night because there is not a liquid market for

¹ *Confidential*

1 power during the “graveyard shift”. The Company’s GRID modeling predicted
2 that even more extreme turndowns at night on coal plants in the Utah division
3 could occur under normalized conditions. If GRID (and plant operators for that
4 matter) *Confidential* these low cost coal plants
5 should be running at full capacity nearly around the clock and making lucrative
6 sales to the off-system market. If this simplistic market price analysis had been
7 used in PacifiCorp’s last rate case, PacifiCorp’s system net power costs would
8 have been lowered by millions of dollars. This would in turn have produced
9 substantially lower rates. In the end, it is totally unrealistic to assume that a gas-
10 fired plant like Currant Creek would normally operate in the *Confidential*
11 *Confidential*
12 *Confidential*

13 In addition, the need to bring units down due to limited market liquidity
14 causes plants to operate at inefficient loading levels, resulting in higher heat rates,
15 and fuel costs. This problem is completely *Confidential*
16 *Confidential*
17 *Confidential*
18 *Confidential*
19 *Confidential* . This is especially troubling in cases
20 where the resources in question have differing capital costs, heat rates and
21 dispatch costs.² Because of this, I question the validity of the final results.

22 **Q. ARE THERE OTHER PROBLEMS APPARENT IN THE PACIFICORP**
23 **MODELING?**
24

² Confidential.

1 A. Yes. There appears to be a substantial discrepancy between the *Confidential*

2 *Confidential*

3 *Confidential*

4 *Confidential*

5 *Confidential*

6 *Confidential*

7 *Confidential*

8 *Confidential*

9 *Confidential*

10 *Confidential*

11 *Confidential*

12 *Confidential*

13 *Confidential*

14 *Confidential*

15 *Confidential*

16 *Confidential*

17 *Confidential*

18 *Confidential*

19 *Confidential*

20 *Confidential*

21

22

23

1 *Confidential*

2 *Confidential*

3 However, when compared to the actual *Confidential*

4 *Confidential* a radically different

5 picture emerges. *Confidential*

6 *Confidential* This

7 is a serious discrepancy that calls into question the reasonableness of PacifiCorp's

8 modeling of Currant Creek.

9 **Q. WHY IS THIS SO SIGNIFICANT?**

10 A. This illustrates illogical inconsistency in the modeling results. *Confidential*

11 *Confidential*

12 *Confidential*

13 *Confidential*

14 *Confidential*

15 *Confidential*

16 *Confidential* One

17 must seriously question either the *Confidential*

18 *Confidential* performed by the Company.

19 *Confidential* I suspect

20 that the *Confidential* procedure used by the Company *Confidential*

21 *Confidential* is either unreliable or simply incorrect.

1 Again, this is particularly a problem when evaluating facilities with differing heat
2 rates, but it even impacts the evaluation of units within the same class.³

3 **Q. DOES *Confidential* EVEN CORROBORATE THE NEED FOR CAPACITY**
4 **IN UTAH IN JUNE 2005?**

5
6 A. No. *Confidential*

7 *Confidential*

8 *Confidential* This suggests there is adequate capacity on a
9 regional basis for two or three more years. Again, this raises questions about the

10 entire analysis *Confidential*

11 *Confidential*

12 *Confidential*

13 *Confidential*

14 **Q. ARE THERE OTHER EXAMPLES OF PROBLEMS IN PACIFICORP'S**
15 **MODELING OF CURRANT CREEK VERSUS RESOURCE**
16 **ALTERNATIVES?**

17
18 A. Yes. *Confidential*

19 *Confidential*

20 *Confidential*

21 *Confidential*

22 *Confidential*

23 *Confidential*

24 *Confidential*

25

26

³ *Confidential*

1 *Confidential*

2 *Confidential*

3 *Confidential*

4 *Confidential*

5 *Confidential*

6 *Confidential*

7 **Q. HOW SIGNIFICANT OF A ROLE** *Confidential*
8 *Confidential*

9
10 A. *Confidential* . According to the
11 testimony of PacifiCorp witness, Rand Thurgood at page 19, the study in question
12 provides the economic basis of the Currant Creek project. Mr. Thurgood testifies
13 as follows:

14 **Q. What is the economic basis for this Currant Creek Project?**

15 A. The *economic basis for evaluating the Currant Creek Project* is the
16 present value revenue requirement (PVRR) of the resource
17 compared against the present value revenue requirement of the
18 projected market value of the energy generated from this project.
19 *It is anticipated customers will receive the benefit of lower present*
20 *value revenue requirements compared to market. This difference,*
21 *designated as PVRR(d), is estimated at \$117 million over the 35-*
22 *year estimated life. (Thurgood direct, page 19, emphasis added).*
23

24 **Q. DOES MR. THURGOOD'S TESTIMONY PROVIDE AN ACCURATE**
25 **REPRESENTATION OF THE ECONOMICS OF THE CURRANT CREEK**
26 **PLANT?**

27
28 A. No, and the Company should be well aware of this fact. Mr. Thurgood's
29 testimony is based on an analysis in which *Confidential*

30 *Confidential*

31 *Confidential*

1 *Confidential*

2 *Confidential*

3 *Confidential*

4 *Confidential*

5 *Confidential* While Mr. Thurgood's testimony implies that Currant

6 Creek will be a “below market” source of power for the next *Confidential*

7 *Confidential*

8 *Confidential*⁴

9 Q. DO YOU INTEND TO IMPLY THAT *Confidential*

10 *Confidential*

11

12 A. No. *Confidential*

13 *Confidential* Because *Confidential* are embedded

14 into the market price forecast (and cannot be removed), they must also be fully

15 included in the economic evaluations of Currant Creek as well.

16 **Q. IS A COMPARISON TO LONG-TERM PURCHASED POWER A**
17 **REALISTIC SCENARIO?**

18

19

9 1

20 market place. However, a fundamental requirement of any engineering or

21 economic analysis is to consider the “do nothing scenario” and this is what the

22 purchase option represents. The Company has failed to properly perform even

23 this most basic analysis. Taken at face value, the corrected study suggests that

24

25

4 *Confidential*

1 Currant Creek is not the least cost alternative because purchased power would
2 cost less.

3 **Q. HAS PACIFICORP REALISTICALLY ASSESSED THE RELIABILITY**
4 **IMPACTS OF CURRANT CREEK AND ALTERNATIVE BIDS?**

5
6 A. No. It is also standard utility industry practice to examine the reliability impacts
7 of different resources. By using production cost models, reliability impacts can
8 be monetized by modeling emergency energy costs or shortage costs. However,
9 PacifiCorp has failed to consider this issue at all. This means that a bidder who
10 offers a number of smaller units (e.g.. internal combustion engines) may have an
11 important reliability advantage to offer that was completely ignored by the
12 Company.

13 **Q. ARE THERE REASONS TO BE CONCERNED ABOUT PACIFICORP'S**
14 **FAILURE TO CONSIDER RELIABILITY?**

15
16 A. Yes. The proposal to stage construction of Currant Creek is unlikely to provide a
17 reliable *Confidential* solution to PacifiCorp's capacity shortfall in 2005.
18 PacifiCorp unreasonably assumes the *Confidential*
19 *Confidential* In reality, PacifiCorp has a very poor
20 track record with its initial operation of CT units. For Gadsby and West Valley,
21 the actual average outage rate was 17.8% in the initial months of operation. One
22 of these units was out of service more than 40% of the time and most had
23 extensive outages.⁵ If Currant Creek performs in a similar manner and the
24 resource shortfall remains as forecasted, there is an uncomfortable risk that
25 disruptions will occur in 2005 even assuming the project is completed on time. I

1 believe that to address this problem PacifiCorp will likely find it needs to acquire
2 some additional resources.

3 **Q. DOES THE STAGED CONSTRUCTION OF THE PROJECT DECREASE**
4 **COSTS TO RATEPAYERS?**

5
6 A. *Confidential*

7 *Confidential*

8 Unless there is no cost-effective purchase power alternative to staged
9 construction, I would recommend strongly against it.

10 **Q. DID STAGED CONSTRUCTION PLAY A CRUCIAL ROLE IN THE BID**
11 **EVALUATION PROCESS?**

12
13 A. Yes. Without a staged construction project, *Confidential*

14 *Confidential*

15 *Confidential*

16 *Confidential*

17 **Q. WHAT CONCLUSIONS DO YOU DRAW FROM YOUR EXAMINATION**
18 **OF PACIFICORP'S MODELING OF CURRANT CREEK AND**
19 **RESOURCE ALTERNATIVES?**

20
21 A. PacifiCorp's economic analysis of Currant Creek is out of line with standard
22 utility industry practice and fails to provide a compelling case for moving forward
23 with the proposed plant. Absent the pressing need for new capacity, I would
24 recommend the Commission simply reject the entire filing and require the
25 Company to file a new case. In the end, the Commission can have little
26

⁵ Again, in its rate case filing the Company did reflect the poor actual outage rates for Gadsby and West Valley, demonstrating the disparity between PacifiCorp's planning assumptions and its ratemaking assumptions as regards new units.

1 confidence that PacifiCorp's studies provide a realistic assessment of Currant
2 Creek or any option it has evaluated. Finally, even if approved, Currant Creek is
3 unlikely to provide a reliable *Confidential* source of power for the summer of
4 2005.

5

6 **RFP AND BID EVALUATION PROCESS**

7

8 **Q. HAVE YOU REVIEWED THE RFP AND BID EVALUATION**
9 **METHODOLOGY USED BY PACIFICORP?**

10

11 A. Yes.

12 **Q. DO YOU HAVE ANY CONCERNS ABOUT THIS PROCESS?**

13 A. Yes. PacifiCorp's RFP 2003-A requested bids for 200 mW "east side peakers."
14 According to Table 4 on page 9 of the RFP, the request was for a term of "up to
15 20 years." On page 13 of the RFP, the Company indicated it would evaluate bids
16 against the NBA, defined as a resource with "*similar characteristics (dispatch*
17 *ability, level of firmness, heat rates, etc.)*"

18 **Q. DID PACIFICORP ACTUALLY DO THIS?**

19 A. No. *Confidential*

20 *Confidential* This effectively eliminated the great majority of *Confidential*
21 *Confidential* .

22 *Confidential*

23 **Q. EXPLAIN THIS ISSUE IN MORE DETAIL.**

24 A. In the utility industry the term peaker denotes a unit used to serve short duration
25 loads during high demand hours on short notice. This peak load is typically

1 served by CTor internal combustion (IC) engine units. CT units have heat rates of
2 10,000 BTU/kWh or higher, and are expected to run with an annual capacity
3 factor of around 30% or less. IC units have even lower heat rates, and are usually
4 smaller, but may have higher O&M and capital costs.

5 *Confidential*

6 *Confidential*

7 *Confidential*

8 *Confidential.*

9 **Q. WAS THERE ANY OTHER INFORMATION IN THE RFP THAT**
10 **SPECIFIED THE TYPE OF UNIT PACIFICORP WAS SEEKING?**

11

12 A. No.

13 **Q. DID ANY OTHER ASPECTS OF THE RFP SUGGEST THAT**
14 **PACIFICORP WAS ONLY INTERESTED IN PEAKING UNITS?**

15

16 A. Certainly. First, the term of “up to 20 years” *Confidential*

17 *Confidential*

In the Gadsby Certification

18 case, the Company assumed a 21-year life for a CT. While the West Valley lease
19 is only for a fifteen-year term, PacifiCorp’s economic evaluations of West Valley
20 also assumed a 21-year life. According to CCS 4.12, PacifiCorp assumes a

21 *Confidential*

22 Also, the request for capacity to be made available by June 2005 strongly
23 implied the *Confidential*

24 *Confidential*

25 *Confidential*

26 *Confidential*

1 *Confidential*

2 *Confidential*

3 *Confidential*

4 *Confidential*

5 **Q. DID ANY OTHER FACTORS SUGGEST THAT PACIFICORP WAS**
6 **INTENT ON *Confidential*?**

7
8 A. *Confidential*

9 *Confidential*

10 *Confidential.* It

11 strikes me as questionable that the Company would now contend such resources

12 are uneconomic. *Confidential*

13 *Confidential*

14 *Confidential*

15 **Q. DID THE 200 MW SIZE REFERENCED IN THE RFP ALSO SUGGEST A**
16 ***Confidential*?**

17
18 A. Yes. *Confidential*

19 While PacifiCorp informed bidders on July 10, 2003 that it would consider larger

20 capacity bids, this came less than two weeks before bids were due and almost five

21 weeks after the RFP was issued.⁶ *Confidential*

22 *Confidential*

23 *Confidential*

24

⁶ *Confidential* bid an amount of capacity larger than allowed by the RFP. By going larger than 200 mW, *Confidential*.

1 *Confidential* Further, PacifiCorp's notification (MRT-3) made no suggestion
2 that a "peaking unit" now meant a *Confidential*.

3 **Q. DID THE REQUEST FOR "PEAKING" RESOURCES DISCOURAGE**
4 **BIDDERS FROM OFFERING** *Confidential*
5 *Confidential*

6
7 A. Yes. *Confidential*

8 *Confidential*

9 *Confidential*

10 *Confidential*

11 *Confidential*

12 **Q. DID THE NBA OPERATE** *Confidential*
13 *Confidential*

14
15 A. *Confidential*

16 *Confidential*

17 *Confidential*

18 approximately 22.5 hours per day.

19 **Q. DID YOU ASK PACIFICORP WHY IT ISSUED AN RFP** *Confidential*
20 *Confidential*
21 *Confidential*

22
23 A. Yes. In CCS 4.2, the Company was asked this question. The answer provided by
24 the Company was largely non-responsive, and merely indicated that the
25 Company's minimum requirement was to have the option for daily dispatch of the
26 winning project. The Company referenced the RFP and Pre-Bid Conference
27 presentation in their response. Based on the Pre-Bid Conference summary
28 document (available on PacifiCorp's web site) there was very little clarification
29 provided. The primary criterion was that the project could be dispatched daily.

1 Nothing in either document identified anything specific about the NBA, other
2 than the fact that it would be a unit with “*similar characteristics (dispatch ability,*
3 *level of firmness, heat rates, etc.)*” as discussed above.

4 In its response to CCS 4.4, the Company indicated that bidders were
5 informed that operation could be as high as 66%. This is quite misleading,
6 however, as it would have required bidders to assume that operation would occur
7 every day for 16 hours for 20 years, an extremely unlikely scenario. PacifiCorp
8 concluded that this was sufficient information to allow bidders to expect a
9 capacity factor as high as 66%. *Confidential*

10 *Confidential*

11 *Confidential*

12 **DID THE COMPANY’S COMPARISON OF *Confidential***

13 ***Confidential***

14 ***Confidential***

15

16 A. Yes. *Confidential*

17 *Confidential*

18 *Confidential*

19 *Confidential*

20 *Confidential*

21 *Confidential*

22 *Confidential*

23 *Confidential*

24 *Confidential*

25

26

1 *Confidential*

2 *Confidential*

3 *Confidential*

4 *Confidential*

5 *Confidential*

6 *Confidential*

7 *Confidential*

8 Q. WAS THERE ANY OTHER NEGATIVE CONSEQUENCE OF THE
9 COMPANY'S ISSUANCE OF AN RFP *Confidential*
10 *Confidential*

11
12 A. It may be impossible to ever know, but it stands to reason that some developers
13 with combined cycle projects may have decided against bidding on the RFP.

14 *Confidential*

15 *Confidential* Thus, the RFP may
16 have attracted non-competitive bidders and discouraged competitive ones.

17 **Q. GIVEN THAT THERE IS ANOTHER RFP** *Confidential,* **IS**
18 **THERE ANY REAL HARM TO POTENTIAL BIDDERS?**

19
20 A. Yes. *Confidential*

21 *Confidential*

22 *Confidential*

23 *Confidential*

24 *Confidential*

25

26

27

1 **Q. COULD THIS PROBLEM BE REMEDIED BY** *Confidential*
2 *Confidential*
3

4 A. *Confidential*

5 *Confidential*

6 *Confidential*

7 *Confidential*

8 *Confidential*

9 **Q. PLEASE SUMMARIZE THIS PORTION OF YOUR TESTIMONY.**

10 A. The RFP sought bids for “peaking units” that would be compared to a NBA with
11 similar characteristics, in terms of heat rate, level of firmness and dispatch ability.

12 *Confidential*

13 *Confidential*

14 *Confidential*

15 *Confidential*

16 **Q ARE THERE ADDITIONAL PROBLEMS WITH THE RFP?**

17 A. Yes, as quoted above, the RFP requested bids for a period of “*up to 20 years.*”

18 *Confidential*

19 However, PacifiCorp did not reject offers for a longer term, including, most
20 notably, PacifiCorp’s own NBA. *Confidential*

21 *Confidential*

22 *Confidential*

23

24

25

1 **Q. HOW DID PACIFICORP ANALYZE THE NBA *Confidential***

2 A. *Confidential*

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21

22 *Confidential*

23

1 *Confidential*

2 *Confidential*

3 **Q. DID PACIFICORP APPLY THE** *Confidential*
4 ***Confidential***

5
6 A. *Confidential*

7 *Confidential*

8 *Confidential*

9 *Confidential*

10 *Confidential*

11 *Confidential*

12 *Confidential*

13 *Confidential*

14 **Q. AT THIS POINT, PLEASE SUMMARIZE WHAT CCS EXHIBIT RJF/4**
15 ***SERVES TO ILLUSTRATE?***

16
17 A. *Confidential*

18 *Confidential*

19 *Confidential*

20 *Confidential*

21 *Confidential*

22 *Confidential*

23 *Confidential*

24 *Confidential*

25 *Confidential*

26

1 **Q. IS THERE ANY JUSTIFICATION FOR THIS APPROACH?**

2 A. *Confidential*

3 *Confidential*

4 *Confidential*

5 *Confidential*

6 *Confidential*

7 *Confidential*

8 *Confidential*

9 *Confidential*

10 *Confidential*

11 *Confidential*

12 *Confidential*

13 *Confidential*

14 *Confidential*

15 *Confidential*

16 *Confidential*

17 *Confidential*

18 *Confidential*

19 **Q. IF THE *Confidential***

20 ***Confidential***

21 ***Confidential***

22

23 A. *Confidential*

24 *Confidential*

25 *Confidential*

1 *Confidential*

2 *Confidential*

3 *Confidential*

4 *Confidential*

5 *Confidential*

6 *Confidential*

7 *Confidential*

8 **Q. ISN'T THE ABILITY TO OBTAIN LONGER TERM FINANCING JUST A**
9 **"COMPETITIVE ADVANTAGE" ENJOYED BY PACIFICORP?**

10
11 A. PacifiCorp probably does enjoy some project financing advantage vis-à-vis some
12 of the bidders. If projects were compared on equal terms, then perhaps such an
13 advantage could swing the results in favor of the NBA. However, even if the
14 bidders had used the same financing arrangements as PacifiCorp, *Confidential*

15 *Confidential*

16 *Confidential* In the end, the Commission has no idea what bidders might have
17 offered had the RFP specification allowed bids for more than 20 years

18 **Q. WAS THIS ISSUE RAISED WITH PACIFICORP DURING TECHNICAL**
19 **CONFERENCES?**

20
21 A. It certainly was. *Confidential*

22 *Confidential*

23 *Confidential* However, at that meeting, the Company also
24 confirmed that at neither the Pre-Bid Conference, nor at a hearing held in Oregon
25 concerning the RFP, did the Company reveal in a public manner that the
26 *confidential* requirement was not really a firm requirement.

1 **Q. CAN YOU EXPLAIN IN MORE DETAIL THE CIRCUMSTANCES**
2 **SURROUNDING THE BIDS EVALUATED IN ROUND 1 THAT**
3 **INCLUDED TERMS IN** *Confidential*
4

5 A. Yes. In most cases these were situations where a plant or turbines were offered
6 for sale. The RFP did specifically allow for plant sales. *Confidential*

7 *Confidential*

8 *Confidential*

9 *Confidential*

10 **Q. SHOULDN'T BIDDERS HAVE TAKEN THE INITIATIVE TO CLARIFY**
11 **THE TERM ISSUE?**
12

13 A. This has been suggested in various corners. *Confidential*

14 *Confidential*

15 *Confidential* and the clear lack of any contrary indication in the RFP or Pre-
16 Bid Conference documents, I doubt it would have occurred to bidders.

17 *Confidential*

18 *Confidential*

19 *Confidential* . It would have taken a great deal of foresight on the part of
20 bidders to realize that purposefully deviating from the terms of the RFP was going
21 to be critical in order to present a competitive bid. A fair bidding process should
22 not require a bidder to ignore the most basic requirements stated in the RFP to
23 have a fair chance of winning the contract.

24

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27

1 **Q. HAVE ANY BIDDERS COMPLAINED THAT THEY WERE** *Confidential*
2 *Confidential?*

3
4 A. *Confidential*

5 *Confidential*

6 *Confidential*

7 **Q. PUTTING ASIDE THE QUESTION OF THE** *Confidential*
8 *Confidential*
9 *Confidential*

10
11 A. *Confidential*

12 *Confidential*

13 *Confidential*

14 *Confidential*

15 **Q. PLEASE EXPLAIN THESE ERRORS IN GREATER DETAIL.**

16 A. *Confidential*

17 *Confidential*

18 *Confidential*

19 *Confidential*

20 *Confidential*

21 *Confidential*

22 *Confidential*

23 *Confidential*

24 *Confidential*

25 *Confidential*

26 *Confidential*

27

1	<i>Confidential</i>
2	<i>Confidential</i>
3	<i>Confidential</i>
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23	

1 *Confidential*

2 *Confidential*

3 *Confidential*

4 **Q. HOW DID THE COMPANY PERFORM ITS ANALYSIS?**

5 A. *Confidential*

6 *Confidential*

7 *Confidential*

8 *Confidential*

9 *Confidential*

10 *Confidential*

11 *Confidential*

12 **Q. DOES PACIFICORP'S IRP DOCUMENTATION CONFIRM YOUR VIEW**
13 **THAT** *Confidential*
14 *Confidential*
15

16 A. *Confidential*

17 *Confidential*

18 *Confidential*

19 *Confidential*

20 *Confidential*

21 *Confidential*

22 *Confidential*

23 *Confidential*

24 *Confidential*

25 *Confidential*

1 *Confidential*

2 *Confidential*

3 *Confidential*

4 *Confidential*

5 *Confidential*

6 **Q. WHY DO YOU SAY THAT THE** *Confidential*

7 *Confidential*

8 *Confidential*

9

10 **A.***Confidential*

11 *Confidential*

12 *Confidential*

13 *Confidential*

14 *Confidential*

15 *Confidential*

16 *Confidential*

17 *Confidential*

18 *Confidential*

19 **Q. THIS ALL SOUNDS RATHER ESOTERIC. WOULD CORRECTING**
20 **THESE ERRORS HAVE ANY REAL IMPACT ON THE CASE AT**
21 **HAND?**

22

23 **A.***Confidential*

24 *Confidential*

25 *Confidential*

26 *Confidential*

27 *Confidential*

1 *Confidential*

2 *Confidential*

3 *Confidential*

4 *Confidential*

5 *Confidential*

6 *Confidential*

7 **Q. RETURNING TO YOUR MAIN POINT, *Confidential***

8 ***Confidential***

9 ***Confidential***

10 ***Confidential***

11

12 **A. *Confidential***

13 *Confidential*

14 *Confidential*

15 *Confidential*

16 *Confidential*

17 *Confidential*

18 **Q. COULD ONE SOLVE THE PROBLEM BY MERELY *Confidential***

19 ***Confidential***

20

21 **A. *Confidential***

22 *Confidential*

23 *Confidential*

24 *Confidential*

25 *Confidential*

26 *Confidential*

27 *Confidential*

1 *Confidential*

2 *Confidential*

3 *Confidential*

4 *Confidential*

5

6 **BID SPECIFIC BIASES IN THE PACIFICORP BID EVALUATION**

7

8 **Q. ARE THE PROBLEMS DISCUSSED ABOVE THE ONLY ONES**
9 **APPARENT IN THE *Confidential***

10

11 A. *Confidential*

12 *Confidential*

13 **Q. PLEASE CONTINUE.**

14 A. *Confidential*

15 *Confidential*

16 *Confidential*

17 *Confidential*

18 **Q. WHAT IS THE DIFFERENCE BETWEEN *Confidential***
19 ***Confidential***

20

21 A. *Confidential*

22 *Confidential*

23 *Confidential*

24 *Confidential*

25 *Confidential*

26

1 **Q. GIVEN THE**
2 **Confidential**

Confidential

3
4 A. *Confidential*

5 *Confidential*

6 *Confidential*

7 *Confidential*

8 *Confidential*

9 *Confidential*

10 *Confidential*

11 *Confidential*

12 *Confidential*

13 **Q. HOW DO THE**
14 **Confidential**

Confidential

15
16 A. *Confidential*

17 *Confidential*

18 *Confidential*

19 *Confidential*

20 *Confidential*

21 *Confidential*

22 *Confidential*

23 **Q. HAVE YOU BEEN ABLE TO ISOLATE THE CAUSES OF THESE**
24 **DIFFERENCES?**

25
26 *Confidential*

27 *Confidential*

28 *Confidential*

1 *Confidential*

2 *Confidential*

3 *Confidential*

4 *Confidential*

5 *Confidential*

6 *Confidential*

7 *Confidential*

8 **Q. DOES THIS EXPANATION MAKE ANY SENSE?**

9 A. *Confidential*

10 *Confidential*

11 *Confidential*

12 *Confidential*

13 *Confidential*

14 *Confidential*

15 *Confidential*

16 *Confidential*

17 *Confidential*

18 *Confidential*

19 *Confidential*

20 *Confidential*

21 *Confidential*

22 *Confidential*

23

1 *Confidential*

2 *Confidential*

3 **Q. DO YOU AGREE WITH PACIFICORP'S ANALYSIS** *Confidential*

4 A. *Confidential*

5 *Confidential*

6 *Confidential*

7 *Confidential*

8 *Confidential*

9 *Confidential*

10 *Confidential*

11 *Confidential*

12 *Confidential*

13 *Confidential*

14 *Confidential*

15 *Confidential*

16 *Confidential*

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18 *Confidential*

19 *Confidential*

20 *Confidential*

21 *Confidential*

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5 *Confidential*

6 *Confidential*

7 *Confidential*

8 *Confidential*

9 *Confidential*

10 *Confidential*

11 *Confidential*

12 *Confidential*

13 *Confidential*

14 *Confidential*

15 **Q. DO YOU HAVE ANY COMMENTS CONCERNING THE DIFFERENCE IN**
16 ***Confidential***

17
18 **A. *Confidential***

19 *Confidential*

20 *Confidential*

21 *Confidential*

22 *Confidential*

23 *Confidential*

24 *Confidential*

25

1 *Confidential*

2 *Confidential*

3 *Confidential*

4 *Confidential*

5 **Q. HAVE YOU FOUND EVIDENCE OF**
6 ***Confidential***

Confidential

7

8 A. *Confidential*

9 *Confidential*

10 *Confidential*

11 *Confidential*

12 *Confidential*

13 **Q. HOW DID THE COMPANY EVALUATE THE**
14 ***Confidential***

Confidential

15

16 A. *Confidential*

17 *Confidential*

18 *Confidential*

19 *Confidential*

20 *Confidential*

21 *Confidential*

22 *Confidential*

23 *Confidential*

24 *Confidential*

25

26

1 **Q. CAN ONE BE SURE THE**
2 **Confidential?**

Confidential

3
4 A. *Confidential*

5 *Confidential*

6 *Confidential*

7 *Confidential*

8 *Confidential*

9 **Q. IS THIS THE ONLY** *Confidential*

10 A. *Confidential*

11 *Confidential*

12 *Confidential*

13 *Confidential*

14 *Confidential*

15 **Q ARE THERE ANY OTHER**
16 **Confidential**

Confidential

17
18 A. *Confidential*

19 *Confidential*

20 *Confidential*

21 *Confidential*

22 *Confidential*

23 *Confidential*

24 *Confidential*

25 *Confidential*

26 *Confidential*

1 *Confidential*

2 *Confidential*

3 *Confidential*

4 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

5 **A. Yes.**